

Appl. No. 10/089,337
Atty. Docket No. 8279
Amdt. Dated June 18, 2004
Reply to Office Action of April 21, 2004
Customer No. 27752

REMARKS

No Amendments to the Claims are presented in the instant Application by this response. Claims 1-20 remain in this Application and are presented for the Examiner's reconsideration in light of the following comments.

Allowable Subject Matter

Claims 8, 9, 10, and 16 have been deemed allowable. Applicants thank the Examiner for this determination.

Rejection Under 35 U.S.C. §102

Claims 1-3, 5, 7, 12, 13, 17, 18, 19, and 20 have been rejected under 35 U.S.C. §102(b) over Cohen, U.S. Patent No. 2,615,447. Applicants respectfully traverse this rejection for the following reasons:

1. Applicants' Claim 1 claims a flexible product dispensing pouch comprising, *inter alia*, a flexible film formed into a pouch having at least a first compartment, a second compartment, and a third compartment and having a first frangible seal disposed between the first and second compartments. The pouch is adapted to provide a temperature modifying reaction/event upon the application of pressure to one or both of the first and second compartments that ruptures the first frangible seal.

2. The *Cohen* reference provides a container 10 surrounded by another container 12 having a plurality of water-filled (cupturable) capsules 15 distributed within a compound disposed therein. The content of the capsules then co-acts with the compound to generate the desired amount of heat. (Col. 2, ll. 27-37)

3. The *Cohen* reference states that in use, the container 12 is compressed sufficiently to break the capsules and release the water or other liquid. (Col. 2, l. 56 – Col. 3, l. 2)

4. Thus, the *Cohen* reference is silent with respect to providing a first compartment and a second compartment having a **frangible seal** disposed therebetween.

5. Even though the capsules of the *Cohen* may be frangible (Col. 3, l. 27), no frangible seal is provided, as is required by Applicants' independent Claim 1.

Because of these considerations, the *Cohen* reference fails to teach each and every element of Applicants' claimed invention. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to Applicants' Claim 1.

Because Claims 2-3, 5, 7, 12, 13, 17, 18, 19, and 20 each depend directly or indirectly from Applicants' independent Claim 1, they contain all of its limitations. For this reason, Applicants

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submit that the arguments made above concerning the allowability of Claim 1 are equally applicable to the rejection of Claims 2-3, 5, 7, 12, 13, 17, 18, 19, and 20 under 35 U.S.C. §102(b). Therefore, Applicants respectfully request reconsideration and withdrawal of the Examiner's 35 U.S.C. §102(b) rejection.

Claims 1-6, 11, 14, 15, 18, and 19 have been rejected under 35 U.S.C. §102(b) over Kuhn, et al. U.S. Patent No. 4,522,190. Applicants respectfully traverse this rejection for the following reasons:

1. The *Kuhn, et al.* reference provides heat pads applicable to use in field ration heaters. The heat pads are formed from an outer cover of kraft/polyethylene laminate paper having a layer of plastic foam insulation secured thereto. (Col. 3, ll. 10-18) A barrier is superimposed over the insulation layer and sealed to the edges of the outer cover. (Col. 3, ll. 17-19) The barrier comprises a paper layer, aluminum foil layer, and an inner plastic covering that prevents moisture from entering the pouch during storage. (Col. 3, ll. 20-23) Heater pads formed from supercorroding alloys and UHMW polyethylene powders are attached to the barrier layer and covered with a tea bag type paper. (Col. 3, ll. 27-31) The assembly is then folded so that one of the heater pads is disposed in each half of the final assembly. (Col. 3, ll. 45-53) Finally, an electrolyte pouch containing a solution to be mixed with the supercorroding alloys is attached to the heater pouch. (Col. 3, ll. 54-57)

2. In operation, the electrolyte pouch is removed from the heater pouch by pulling it apart from edge 22. (Col. 3, ll. 58-60) Next, the top of the heater pouch is torn off. (Col. 3, l. 61) This heater pouch is then opened for insertion of the product to be heated. (Col. 3, ll. 62-64) The contents of the electrolyte pouch are then poured into the heater pouch. (Col. 3, ll. 66-68)

3. Thus, as can be seen, the heater described by the *Kuhn, et al.* reference does not comprise a flexible film formed into a pouch having at least three compartments, as required by Applicants' Claim 1.

4. Further, the *Kuhn, et al.* reference does not describe a flexible film formed into a pouch having at least three compartments and further comprising a first frangible seal disposed between the first and second compartments that ruptures upon the application of pressure to one or both of the first and second compartments.

Because of these considerations, the *Kuhn, et al.* reference does not teach or disclose what Applicants claim as their invention. Further, the *Kuhn, et al.* reference fails to even suggest or render obvious every recited feature of Applicants' Claim 1. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection with respect to Claim 1.

Because Claims 2-6, 11, 14, 15, 18, and 19 all depend directly or indirectly from Applicants' independent Claim 1, they contain all of its limitations. For this reason, Applicants further submit that the arguments made above concerning the allowability of Claim 1 over the *Kuhn, et al.* reference are equally applicable to the rejection of Claims 2-6, 11, 14, 15, 18, and 19 under 35 U.S.C. §102(b).

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Therefore, Applicants respectfully request reconsideration and withdrawal of the Examiner's 35 U.S.C. §102(b) rejection to Applicants' claims over the *Kuhn, et al.* reference.

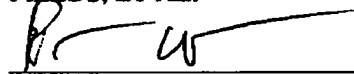
Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512. If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

FIELDS, ET AL.



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